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9                    AT SEATTLE  
10                  CLERK U.S. DISTRICT COURT  
11                  WESTERN DISTRICT OF WASHINGTON  
12                  DEPUTY

13                  IN THE UNITED STATES DISTRICT COURT FOR WESTERN DISTRICT OF  
14                  WASHINGTON AT SEATTLE

15                  LILIAN ILETO, on behalf of the Estate  
16                  of JOSEPH ILETO,

17                  Plaintiffs,

18                  Vs.

19                  LOANER TOO, a/k/a , LOANER II,  
20                  LOANER, INC . LOANER TWO  
21                  PAWNSHOP, LOANER PAWN SHOP

22                  Defendant.

23                  CV No. 06-1583 Jce

24                  COMPLAINT FOR DAMAGES

25                  (Clerk's Action Required)

26                  JURY TRIAL DEMANDED

27                  I. INTRODUCTION

28                  1.1 Plaintiff Lilian Ileto is the mother of deceased Joseph Ileto, and has  
29                  petitioned the Superior Court for Los Angeles County, where she resides, to be appointed  
30                  the Administrator for the Estate of Joseph Ileto.

31                  1.2 This case arises under the wrongful death and survivorship statutes of the  
32                  State of Washington. It is brought against Loaner Too a/k/a Loaner II, Loaner, Inc.,  
33                  Loaner Two, Loaner Two Pawnshop, Loaner Pawn shop and its agents, employees and  
34                  owners, (hereinafter referred to as "Loaner") for its negligent failure to adequately

35                  COMPLAINT FOR DAMAGES

36                  1

37                  Law Offices of Michael Withey, PLLC  
38                  601 Union Street, Ste. 4200  
39                  Seattle, WA 98101  
40                  206-405-1800



ORIGINAL

1 investigate the criminal and mental health history of one Buford Furrow, Jr. to whom it  
2 supplied a firearm, the negligent failure to require him to complete and submit mandatory  
3 federal firearm reporting forms, the negligent failure to comply with state and federal  
4 firearms laws, the negligent failure to adequately train and supervise its employees in the  
5 proper manner of complying with state and federal firearms law, and other negligent acts  
6 alleged herein or as will be proven at trial. As a proximate result of such negligence  
7 Plaintiff's decedent Joseph Ileto was killed by Buford Furrow using the firearm supplied  
8 to him by Loamer.

## II. PARTIES, JURISDICTION AND VENUE

12       2.1 Plaintiff Lilian Ileto has petitioned the Superior Court for Los Angeles  
13 County, California, where she resides, and where descendent Joseph Ileto resided prior to  
14 his death, to be appointed as the Administrator of the Estate of Joseph Ileto. At such time  
15 when the Los Angeles County Superior Court appoints Lilian Ileto as the Administrator  
16 of the Estate, Plaintiff will seek to amend this Complaint to so state.

21       2.3     Diversity jurisdiction is vested in this court by virtue of the fact in that the  
22 Plaintiff and Defendant are residents of different states and the amount in controversy  
23 exceeds the sum of \$75,000 (Seventy-five thousand Dollars).

2.4 Venue exists in this district because the negligent acts committed by  
Loaner were principally committed within the Western District of Washington.

### III. STATEMENT OF FACTS

3.1 Plaintiff's decedent and son Joseph Ileto, 39, was a mail carrier working for the United States Postal Service working in Chatsworth in Los Angeles County, California. He was of Filipino descent. Prior to his death, he lived with his mother, was an excellent postal letter carrier, and had an avid interest in chess. His mother, Lilian Ileto, was "financially dependant" upon Joseph Ileto as that term is defined under Washington statutes and law.

3.2 On August 10, 1999 Joseph Ileto was working his assigned route as a mail carrier in the Chatsworth area of the San Fernando Valley of California, when he was approached by Buford Furrow, Jr. Mr. Ileto got out of his postal vehicle. Furrow at the time was carrying a concealed weapon, a 9mm model Glock 26 firearm, Serial Number BSM901US, which he had acquired from Loamer.

3.3 Using the ability to conceal the Glock firearm from Mr. Ileto, Mr. Furrow asked Mr. Ileto if he would mail a letter for him in order to induce Mr. Ileto to approach him. When Mr. Ileto was within firing range (approximately 25 feet away) Mr. Furrow pulled the Glock firearm from its place of concealment and shot him twice in the front of his body. Mr. Ileto then turned to run away from Mr. Furrow and seek shelter when Mr. Furrow then shot him seven times in the back and head, which caused him fatal injuries.

1                   **IV. CAUSE OF ACTION FOR NEGLIGENCE**

2         4.1 Plaintiff sues under the laws of the State of Washington including for  
3         wrongful death and survivorship under RCW 4.20.010 *et. seq.* and RCW 4.20.046.

4         4.2 On or about May 21, 1999, Buford Furrow was convicted of second  
5         degree assault, a felony, in the State of Washington. While he was in custody awaiting  
6         trial for this offense, he was involuntarily committed to a mental hospital. He was  
7         sentenced to jail. After serving his in jail time he was released on parole. On information  
8         and belief Furrow had previously pawned a Glock Model 26 pistol, serial number  
9         BSM901US, to Loaner in Everett, Washington. Under Washington state law, WA REV  
10         CODE Section 9.41.120, no person other than a duly licensed firearms dealer shall make  
11         any loan secured by a mortgage, deposit or pledge of a pistol. On information and belief,  
12         at the time Furrow pawned the Glock 26, and at all times relevant to this complaint,  
13         Loaner was a federally licensed and state licensed firearms dealer and subject to all the  
14         federal and state statutes regulating firearms dealers.

15         4.3 Some time subsequent to pawning the Glock 26, Furrow returned to  
16         Loaner and received back the Glock 26. At the time of delivering the Glock 26 back to  
17         Furrow, Loaner was required by federal and state law to fill out those portions of the  
18         Federal Firearms Transaction Records, Form 4473. This form was required to be filled  
19         out by the licensed dealer transferring or delivering the pistol. Loaner was required by  
20         federal and state law to have the person receiving the pistol in this case, Mr. Furrow, fill  
21         out other portions of the 4473 in the dealer's presence. The relevant state and federal  
22  
23  
24

statutes related to the 4473 form are: 18 U.S.C. § 923(g)(1)(A) and WA REV CODE 9.41.090(5) and 9.41.110(9)(a). All the foregoing statutes are state and federal statutes applicable to the sale or marketing of firearms within the meaning of 15 USC Section 7903(5)(A)(iii).

4.4 At the time of delivering the pistol back to Furrow, Loaner was not allowed under federal law to fill in any portion of the 4473. Rather it was required to be filled out by the person receiving the pistol. Loaner was not allowed by state and federal law to transfer a pistol to a person whom Loaner had reasonable cause to believe was convicted of a felony; and was not allowed under federal and state law to transfer a pistol to a person whom the dealer knows or has reasonable cause to believe has been involuntarily committed for mental health treatment. The relevant state and federal statutes are found at 18 U.S.C. § 923(g)(1)(A), 18 U.S.C. § 922(d)(1) and (4), WA REV CODE 9.41.080 and each of the foregoing statutes is a statute applicable to the sale or marketing of firearms within the meaning of 15 USC 7903(5)(A)(iii).

4.5 At the time Furrow came to retrieve the Glock 26 from Loaner, a manager of Loaner, David McGee or another employee of Loaner, acting on behalf of and within the scope of their employment for Loaner, knowing or having reasonable cause to believe Furrow was ineligible to receive the pistol because he was adjudicated mentally incompetent within the meaning of 18 U.S.C. § 922(d)(4) and Wash Rev. Code 9.41.040(2)(a)(ii) having been involuntarily committed to a mental hospital; and/or had been convicted of a felony making him ineligible to possess or purchase a firearm under

1 state and federal law, nevertheless negligently transferred and delivered the Glock 26 to  
2 Furrow in violation of 18 U.S.C. § 922(d) and Wash Rev. Code 9.41.080.

3       4.6     In addition, on information and belief, Plaintiff alleges that the Loaner  
4 employee who delivered the pistol to Furrow or some other Loaner employee aware of  
5 the delivery of the pistol to Furrow, knowing or having reasonable cause to believe that  
6 delivery of the Glock 26 to Furrow was not allowed by state and federal law, at some  
7 time forged that portion of the 4473 required by law to be prepared and signed by the  
8 person to whom the pistol is delivered. Such person forged Furrow's signature, back  
9 dated the Form 4473, and misstated his place of birth such person knew or should have  
10 known that Furrow was required to fill in that portion of the Form 4473 in the presence of  
11 the dealer as required by law.  
12

13       4.7     Plaintiff alleges Loaner negligently failed to comply with legal  
14 requirements in delivering the pistol to Furrow as described in this complaint, in violation  
15 of the cited statutes, all of which are statutes applicable to the sale or marketing of  
16 firearms within the meaning of 15 USC Section 7903(5)(A)(iii); and therefore this  
17 lawsuit is outside the purview of 15 USC Sections 7901 - 7903, known as the Protection  
18 of Lawful Commerce in Arms Act.  
19

20       4.8     Loaner also negligently failed to adequately train, monitor and supervise  
21 its employees in the proper performance of their legal duties in transferring firearms, and  
22 with respect to federal and state laws applicable to firearms dealers.  
23

1       4.9     As a proximate result of the negligence of defendant as alleged herein, Mr.  
2 Furrow was able to conceal the Glock firearm described above, in murdering plaintiff's,  
3 decedent Joseph Ileto. As a proximate result of the defendant's negligence as alleged  
4 herein, Mr. Ileto was shot and killed by Furrow using the Glock firearm. Mr. Ileto and  
5 his Estate suffered pre-death pain and suffering (including in his vain attempt to flee Mr.  
6 Furrow), the loss of life expectancy, the loss of enjoyment of life, the loss of income, the  
7 loss of financial support to Lilian Ileto, and any and all other injuries and damages  
8 allowed by law.

10                      **V. FRAUDULENT CONCEALMENT**

11       5.1     Loaner fraudulently concealed from plaintiff the negligence/wrongful  
12 death and survivorship causes of action by falsely filling in and forging the signature of  
13 Buford Furrow on the Form 4473, which is attached as Exhibit 1 to this Declaration. On  
14 information and belief, Loaner forged the signature of Mr. Furrow and inappropriately  
15 filled in the other information contained on this form (some of which was inaccurate)  
16 after Mr. Furrow had committed the homicide of Joseph Ileto and Loaner became aware  
17 of Mr. Furrow's involvement in a crime spree in the Los Angeles area.

18       5.2     In addition, the defendant filed this forged Form 4473 as an exhibit to  
19 pleadings in state court in support of its legal position that the court had no jurisdiction  
20 over Lilian Ileto's lawsuit brought in the State of California. That lawsuit was dismissed  
21 without prejudice due to lack of personal or long-arm jurisdiction over Loaner at the  
22 urging of Loaner.

5.3 By such fraudulent concealment the defendant sought to mislead the plaintiff, her family and the courts in California to believe that what is attached as Exhibit 1 to this Complaint was a true and accurate copy of a U.S. Treasury Department Form 4473 signed by Mr. Furrow. In fact, such document was not signed by Mr. Furrow or filled out by him, as Plaintiff only discovered in 2005. Mr. Furrow's signature is a forgery, the date of the transaction is misstated, and Mr. Furrow's birthplace is misstated. Each of these actions were fraudulent acts designed to mislead Plaintiff and the authorities. These are all fraudulent acts which Plaintiff did not discover or in the exercise of reasonable diligence would not have discovered within three years of the date of filing of this Complaint.

## **VI. PRAYER FOR RELIEF**

WHEREFORE, the plaintiff asks for relief as follows:

(1) all special damages including loss of income, loss of economic value of the estate, medical bills, funeral expenses, counseling costs, loss of the benefit of the financial and emotional support to all the applicable statutory beneficiaries to whom such support was provided, and any and all other special damages allowed by law;

(2) for all general damages allowed under the Washington State law allowing wrongful death and survivorship actions including but not limited to the pre-death pain and suffering by Joseph Ileto, loss of life expectancy, loss of the enjoyment of life, the loss of love, companionship and affection of his surviving family, and any and all such other general damages that are allowed by law;

- (3) for costs of suit and attorneys fees that are allowed by law;
  - (4) for such other relief as the court deems just.

DATED this / day of November, 2006.

LAW OFFICES OF MICHAEL WITHEY, PLLC

Michael E. Withey  
Michael E. Withey, WSB# 4787  
Attorney for Plaintiff

**COMPLAINT FOR DAMAGES**

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Law Offices of Michael Withey, PLLC  
601 Union Street, Ste. 4200  
Seattle, WA 98101  
206-405-1800

**EXHIBIT 1**

OMB NO. 1170-0129

TRANSFEE'S TRANSACTION

SERIAL NUMBER

62162

## DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

## FIREARMS TRANSACTION RECORD PART I - OVER-THE-COUNTER

NOTE: Please print clearly. All entries on this form must be in ink. See Important Notices, Definitions and Instructions.

## SECTION A - MUST BE COMPLETED PERSONALLY BY TRANSFEE (BUYER)

1. TRANSFEE'S (Buyer's) NAME (Last, First, Middle)	<input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	2. HEIGHT	3. WEIGHT	4. RACE
FURROW BUFORO		5'8	200	W
5. RESIDENCE ADDRESS (No., Street, City, County, State, ZIP Code)	OLYMPIA	6. DATE OF BIRTH	7. PLACE OF BIRTH (City)	
638 OLD PACIFIC HWY WA		MONTH DAY YEAR	OLYMPIA	STATE OR FOREIGN COUNTRY
		11 25 61		WA

## 8. CERTIFICATION OF TRANSFEE (Buyer) - Questions 8 through 11 must be answered with a "yes" or "no" marked in the box at the right of the question.

9. Are you the actual buyer of the firearm indicated below? If you answer no to this question the dealer cannot transfer the fire- arm to you. (See Important Notice 1.)	<input checked="" type="checkbox"/> Y	I. Have you ever been adjudicated mentally defective or have you been committed to an institution?	<input type="checkbox"/> N
10. Are you under indictment or information in any court for a crime for which the judge could imprison you for more than one year? An information is a formal accusation of a crime made by a prosecuting attorney.	<input checked="" type="checkbox"/> N	J. Have you been discharged from the Armed Forces under dishonorable conditions?	<input type="checkbox"/> N
11. Have you been convicted in any court of a crime for which the judge could have imprisoned you for more than one year, even if the judge actually gave you a shorter sentence? (See Important Notice 3 and EXCPTION.)	<input checked="" type="checkbox"/> N	K. Are you an alien illegally in the United States?	<input type="checkbox"/> N
12. Are you a fugitive from justice?	<input checked="" type="checkbox"/> N	L. Have you ever renounced your United States citizenship?	<input type="checkbox"/> N
13. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?	<input checked="" type="checkbox"/> N	M. Are you subject to a court order preventing you from having, holding, or possessing an interstate partner or child of such partner? (See Important Notice 4 and Definition 4.)	<input type="checkbox"/> N
14. Are you a citizen of the United States?	<input type="checkbox"/> N	N. Have you been convicted in any court of a misdemeanor crime of domestic violence? This includes any misdemeanor conviction involving the use or attempted use of physical force committed by a current or former spouse, parent, guardian or the victim or by a person with a similar relationship with the victim. (See Important Notice 5 and Definition 5.)	<input type="checkbox"/> N
15. What is your State of residence?	WA (State)	O. Are you a citizen of the United States?	<input type="checkbox"/> Y

If you are not a citizen of the United States, you have a State of residence only if you have resided in the State for at least 90 days prior to the date of this sale. (See Definition 11.)

I CERTIFY THAT THE ABOVE ANSWERS ARE TRUE AND CORRECT. I UNDERSTAND THAT A PERSON WHO ANSWERS "YES" TO ANY OF THE QUESTIONS 8 THROUGH 11 IS PROHIBITED FROM PURCHASING OR POSSESSING A FIREARM. I ALSO UNDERSTAND THAT THE MAKING OF A FALSE OATH, OR WRITTEN STATEMENT OR THE EXHIBITING OF AN FALSE OR UNREPRESENTED IDENTIFICATION WITH RESPECT TO THIS TRANSACTION IS A CRIME PUNISHABLE AS A FELONY. I FURTHER UNDERSTAND THAT MY REPETITIVE PURCHASE OF FIREARMS FOR THE PURPOSES OF RETAIL FOR LIVELIHOOD AND PROFIT WITHOUT A FEDERAL FIREARMS LICENSE IS A VIOLATION OF LAW. (SEE IMPORTANT NOTICE 6)

TRANSFEE'S (Buyer's) SIGNATURE

DATE

10-12-98

## SECTION B - TO BE COMPLETED BY TRANSFEE (SELLER)

THE PERSON DESCRIBED IN THIS SECTION HAS IDENTIFIED HIMSELF/HERSELF TO ME IN THE FOLLOWING MANNER:

12. TYPE OF AND NUMBER ON IDENTIFICATION (Driver's license or Identification card which shows name, date of birth, place of residence, and signature. Persons who are aliens must provide a valid government-issued photo identification. See Definitions to Transferee 1 and 2.)	13. TYPES AND DATES OF ADDITIONAL IDENTIFICATION REQUIRED FOR ALIENS (e.g. valid BIA or Alien registration. See Instruction to Transferee 2.)
---	---

On the basis of (1) the statements in Section A; (2) the verification of identity made in Section B; and (3) the information in the current law or Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s), described below and on the back, to the person identified in Section A.

11. TYPE (Pistol, Revolver, Rifle, Shotgun, etc.)	12. MODEL	13. CALIBER OR GAUGE	14. SERIAL NO.	15. MANUFACTURER (and importer, if any)
1. PISTOL	26	9mm	185M 91011-11111	6.6 CLK
2.			11111-11111	
3.			11111-11111	
4.			11111-11111	

Complete ATF Form 4 for multiple purchases of handguns. (See instructions to Transferee 7.)

16. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR (Seller) (Hand stamp may be used.)  
Lease 100 9701 Elmgrove St. 991031021C38161

LOANER INC.  
100 Elmgrove St.  
Everett, WA 98201

CJ  
Elliott, WA 98203  
426-353-1476 991031021C38161

THE PERSON ACTUALLY MAKING THE FIREARMS SALE MUST COMPLETE ITEMS 16 THROUGH 20.

17. TRANSFEROR'S (Seller's) SIGNATURE

18. TRANSFEREE'S (Buyer's) SIGNATURE

19. TRANSACTION DATE

10/12/98

262256